

From: Patrick Fleming
To: Microsoft ATR
Date: 1/27/02 5:08pm
Subject: Microsoft Settlement

Department of Justice,

Regarding the proposed settlement of the current Microsoft antitrust suit I believe that the penalties proposed are too light and will force the government into further court cases with Microsoft in the future. When choice is taken away from the consumer, as in this case, we are harmed. As the past behavior of Microsoft shows, they are not interested in the consumer, only in increased or maintained market share. In 1994, Microsoft moved to shut Netscape out of the browser market- not through increased performance and enhanced abilities, but rather through restrictive licensing practices forcing OEMs into installing only Internet Explorer on Windows operating systems installed by the OEMs. Today, on Microsoft's own website it is declared, "Windows 2000 Professional is designed to make it easier for organizations to embrace the Internet. The built-in Internet Explorer (IE), a tightly integrated browser, provides users with a faster and richer Internet experience. With support for Dynamic HTML (DHTML) and Extensible Markup Language (XML), it offers a powerful platform for developers to create highly scalable end-to-end e-commerce and line-of-business web applications." This appears to be in clear violation of past consent decrees regarding Windows and the Internet Explorer software. They have expanded the hold on the browser market by implemented unwritten, undocumented, protocols and extensions into Front Page that did not, and still do not, display correctly using any browser except Internet Explorer forcing web surfers to use IE when viewing pages written using Front Page. The resulting statistics gathered by web site owners and operators shows a decided advantage to IE and leads to reduced standards coding and towards IE specific coding- a self-fulfilling prophecy. The more IE specific the coding the higher the percentage of users will use IE to view the page driving the statistics higher still on IE causing programmers to believe (if they only look at their own stats) that IE is the predominate browser. MS account executives are able to convince technology purchasers that the only web server viable is the current offering of Windows 2000 running Internet Information Server 5.0 since statistics show IE as the highest used browser and W2k/IIS5 as the only server capable of using the proprietary extensions of all those IE browser users. Eventually this circular logic begins to lock in the browser and then the server market, standards fall by the wayside, and users of other browsers find that they are unable to view a larger and larger percentage of web sites without using the operating systems and browsers provided by MS.

It is no great leap to imagine that Microsoft will not follow the latest settlement as written (even though it is not very harmful to Microsoft as written) and will continue to move forward 'embracing and

extending' until the operating system encompasses every conceivable function driving out not only potential competing operating systems, but all software manufacturers as well.

Just as we would not want to have a single company supplying our automobiles, computers (without the operating system installed), gasoline, steel, electricity, telephone access, tires (suppose only Firestone tires were available?) we should not want a single company controlling our computers, which web sites we can view, and which software we can use. Allowing Microsoft to maintain their monopoly in the manner prescribed can only worsen the state of computer security, preclude choice to the end user and reduce the overall quality of available products. The originally penalties imposed by Judge Jackson should be reinstated. Microsoft needs to be forced to compete on an even level with Netscape. It should be forced to open all of its APIs to the programming community at large so that all products can inter operate equally with the operating system. Only by having real solutions rather than a slap on the wrist as imposed by this agreement can we be assured that Microsoft is competing fairly, rather than shutting out competitors by hiding parts of its functionality within the APIs. Already MS has integrated the browser into its operating system. When a real threat of an office suite of products emerges will they then integrate MS Office into the operating system as well? The only real solution is to break MS up into the three distinct companies that Judge Jackson proposed forcing equal competition. Oversight of the settlement needs to continue for longer than the five (or seven) years proposed as well. Would the Justice Department have agreed that AT&T not be forced to break up or that they would only be restricted to five years of oversight? I believe not.

Microsoft has been charged with, and found guilty of, seriously damaging customer choice, forcing artificially high prices, suppression of competition and blatantly ignoring their previous consent decree. The punishment should fit the crime.

Patrick Fleming,
Consumer